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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/534,655	03/24/2000	Joseph E Thompson	BJSC:286	2520	
	7590 02/03/2004		EXAM	INER	
William W Enders Esq O'Keefe Egan & Peterman			TUCKER,	TUCKER, PHILIP C	
1101 Capital of Texas Highway South			ART UNIT	PAPER NUMBER	
Building C Suite 200			1712		
Austin, TX 78746			DATE MAILED: 02/03/2004		

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Osl/534,665	· ·	Application No.	Applicant(s)			
Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE of this communication appears on the cover sheet with the correspondence address − Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Excessions of the may be precised used in the processor of 37 CFR 1138(s). In no event, however, may a reply be timely filled. If the pacidic to reply specified above, the maximum statistical predict will apply and will expire 30% (8) MCNTH'S from the mailing date of this communication of the reply specified above, the maximum statistics predict will apply and will expire 30% (8) MCNTH'S from the mailing date of this communication, even if strely filled, may reduce any canned plated term deligation and their the maining date of this communication, even if strely filled, may reduce any canned plated term deligation is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Queyle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) □ Claim(s) 3.7-44.46.47.49.51-53.56.74.76-79.81.82 and 85-102 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) □ Claim(s) 3.46.47.49.51-53.56 and 95-101 is/are allowed. 5) □ Claim(s) 3.46.47.49.17-8.78.8-39 and 102 is/are rejected. 7) □ Claim(s) 3.46.47.49.17-8.78.8-39 and 102 is/are rejected. 7) □ Claim(s) 3.64.47.49.17-8.78.8-39 and 102 is/are rejected. 7) □ Claim(s) 3.64.57.59-74.76.78.81.82 and 94 is/are objected to by the Examiner. Application Papers 9) □ The drawing(s) filed on is/are: al) □ accepted or b) □ objected to by the Examiner. Application Papers 9) □ The ordinary of request that any objection to the drawing(s) be held in abovenice. See 37 CFR 1.121(d). 11) □ The oath or declaration is objected to by the Examiner. Application Papers 9) □ The procedification of the foreign priority under						
Priint C Tucker The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of size may be available under the productors of 37 CPR 1.33(a). In no event, however, may a reply be interflying after 50 (so MONTH) from the mailing date of the communication. If the particle for reply specified above is less than the interfly (30) days, as reply will apply and will evapire 3X(a) (so MONTH'S from the mailing date of the consideration of the reply specified above is less than the interflying of the contribution of the reply specified above is less than the interflying of the contribution of the reply specified above is less than the interflying of the contribution of the reply specified above is less than the interflying of the contribution of the reply specified and the contribution of the reply specified and the contribution of the contribution o	Office Action Summary					
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THE MAILING DATE OF THIS COMMUNICATION. - Estination of bine may be available under the provisions of 3 CFR 1.13(a). In no event, however, may a reply be firrely filed after SIX (6) AIOTH 55 from the mailing date of this communication. - If the second or may is pseudoide under the mailing date of this communication. - If place to reply within the set of real-read glob of this communication. - Failure to reply within the set of real-read glob of this communication. - Failure to reply within the set of real-read glob of the reply will be the application to become ABANDONED (36 U.S.C. § 133). - Pay reply received by the Cities let than there entitle at the maining date of the communication, even if timely liked, may reduce any sammed patient term alphalment. Set 37 CFR 1.74(b). - Status 1)						
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Art Unit: 1712

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/30/03 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 3. Claims 37, 56, 58, 77, 79, 85-93 and 102 are rejected under 35 U.S.C. 102(b) as being anticipated by Bush et al. (5283235).

Bush teaches a gel which is a water in oil emulsion, and thus organic based, which comprises a MSMA polymer, various metal salts, and may comprise a carboxylic acid (see column 2, lines 9-13, Examples 1-16, column 14, lines 29-41 and column 23, lines 31-38). The field brines would contain mixtures of the various salts.

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4. Claims 38-44, 57, 59-74, 76, 78, 81, 82 and 94 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

- 5. Claims 46, 47, 49, 51-53, 55 and 95-101 are allowable over the art of record.
- 6. Applicants amendment and arguments have been noted. A new rejection is presented in view of Bush.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip C Tucker whose telephone number is 571-272-1095. The examiner can normally be reached on Monday - Friday, Flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

Philip C Tucker Primary Examiner Art Unit 1712 Page 3